

### **REMARKS**

Applicants file concurrently herewith a Request for Continued Examination (RCE) in response to the final Office Action mailed July 11, 2008 (hereinafter, "Office Action"). In the Office Action, the Examiner rejected claims 8, 9, and 14-16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0062392 to Nishikawa et al. (hereinafter, "Nishikawa") in view of U.S. Patent No. 6,772,354 to Takenaka<sup>1</sup> et al. (hereinafter, "Takenaka") and U.S. Patent no. 7,191,267<sup>2</sup> to Noda et al. (hereinafter, "Noda").

By this response, Applicants hereby amend claims 8 and 14. Claims 1-7 and 10-13 were previously canceled. Accordingly, claims 8, 9, and 14-16 are currently pending.

In light of the foregoing amendments and based on the reasoning presented below, Applicants traverse the rejection of claims 8, 9, and 14-16 under 35 U.S.C. § 103(a), and request the allowance of pending claims 8, 9, and 14-16.

#### **I. Rejection under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejection of claims 8, 9, and 14-16 under 35 U.S.C. § 103(a) as being unpatentable over the cited art because a *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103(a) is the clear articulation of the reasons why the claimed invention would have been obvious.

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<sup>1</sup> While the Examiner refers to "Takenada" throughout the Office Action, this appears to have been a typographical error. The first named inventor on the cited patent is "Yoshiaki Takenaka."

<sup>2</sup> The body of the Office Action identifies U.S. Patent No. 7,179,267 as corresponding to Noda in the 35 U.S.C. § 103 rejection. Office Action, p. 3. However, reference B on the Notice of References Cited correctly identifies U.S. Patent No. 7,191,267 to Noda.

Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. See M.P.E.P. § 2141, 8<sup>th</sup> Ed., Rev. 6 (Sept. 2007). “A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.” M.P.E.P. § 2145. Furthermore, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” at the time the invention was made. M.P.E.P. § 2143.01(III) (internal citations omitted). In addition, when “determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(I) (internal citations omitted) (emphasis in original).

In this application, a *prima facie* case of obviousness has not been established because, among other things, the cited art fails to teach or suggest each and every feature of Applicants' independent claims 8 and 14. Specifically, Applicants respectfully submit that claims 8, 9, 14, 15, and 16 are allowable because neither Nishikawa, nor Takenaka, nor Noda, taken alone or in any reasonable combination, teaches or suggests, *inter alia*, “[a] server apparatus comprising: a body; a network process unit provided in the body . . . ; and an AV function unit provided in the body . . . ,” as recited in independent claim 8, and similarly recited in independent claim 14. By virtue of their dependence from independent claims 8 and 14, claims 9 and 15-16 respectively require at least these limitations.

Instead, Nishikawa discloses “[an] AV system network 20 compris[ing] an AV system server 22, a television 26, a digital VCR 28 and other AV appliances, all of which are connected to the AV system network 20 via an AV system network bus 24.” Nishikawa, ¶ 0030 (emphasis added). While the Examiner alleges on page 2 of the Office Action that Nishikawa’s “communication unit 50 [of AV system server 22] for connecting controller 42 or mobile terminal 40 to TV 26 or VCR 28” corresponds to Applicants’ “server apparatus comprising a network process unit,” these features of Nishikawa are nevertheless disposed in AV system network 20, and not in AV system server 22. See Nishikawa, FIG. 1. In contrast to Nishikawa, Applicants’ independent claims 8 and 14 clearly require that the network process unit and AV function unit are included in Applicants’ server apparatus body.

Moreover, the Examiner’s reason for not considering Applicants’ previous arguments regarding this failure of Nishikawa clearly contradicts the examination requirements outlined in the M.P.E.P. While it is arguably true that “[a] preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure . . . ” (Office Action, pp. 2-3), this statement is inapplicable to the claim recitations in this application. There is no language in the preamble of claim 8 with respect to “the purpose of a process or the intended use of a structure,” as alleged by the Examiner. Id. Instead, the preamble of claim 8 is devoted almost entirely to the structure itself.

According to the M.P.E.P., “[a]ny terminology in the preamble that limits the **structure** of the claimed invention must be treated as a claim limitation.” M.P.E.P. § 2111.02(I) (citation omitted) (emphasis added). “The determination of whether

preamble recitations are structural limitations or merely statements of intended purpose or use 'can be resolved only on review of the entirety of the [record] to gain an understanding of what the inventors actually invented and intended to encompass by the claim.'" M.P.E.P. § 2111.02(II) (citation omitted). The Examiner has clearly failed to consider that the plain language of the claim 8 recitation of "[a] server apparatus comprising . . . " is structure.

Neither Takenaka, nor Noda, overcome the deficiencies set forth above, including the failure of Nishikawa to disclose or suggest at least the above-quoted elements of independent claim 8. Indeed, Takenaka and Noda each suffer from the same deficiency as that of Nishikawa. Specifically, neither Takenaka, nor Noda, discloses or suggests "[a] server apparatus comprising: a body; a network process unit provided in the body . . . ; and an AV function unit provided in the body . . . ," as recited in independent claim 8, and similarly recited in independent claim 14.

Instead, Figure 1 of Takenaka discloses "an electronic device system . . . constituted by having a plurality of AV devices interconnected via an IEEE 1394 interface data bus . . . ." Takenaka, 5:15-18. Noda, which contains the same Figure 1 as that of Takenaka and has a common group of inventors, also discloses that the AV system of Figure 1 includes multiple, distinct components. In both Takenaka and Noda, for example, "the embodiment as an AV system is composed of an STR (stereo tuner receiver) 60, two STR-compatible CD devices 30, one STR-compatible MD device 1, a device 100 from the same [vendor] as that of the configured components, and a device 110 from a different [vendor]." Takenaka,

5:20-24; Noda, 4:59-63. Thus, both Takenaka and Noda disclose separate, distinct units.

Furthermore, neither Nishikawa, nor Takenaka, nor Noda, discloses or suggests, *inter alia*, "the network process unit obtaining a current status of the AV function unit . . . when the network process unit receives, from the electronic apparatus, a communication packet containing a command to check the current status of the AV function unit," as also recited in amended independent claim 8, and similarly recited in amended independent claim 14.

The Office Action acknowledges that "Nishikawa does not specifically disclose the network processing unit returning a communication packet containing a command indicating a current status of the AV function unit, when the network process unit receives, from the electronic apparatus, a communication packet containing a command to check the current status of the AV function unit." Office Action, p. 4. To overcome the deficiencies of Nishikawa, the Examiner incorrectly relies upon Takenaka. However, instead of disclosing the recitations of amended independent claims 8 and 14, Takenaka and Noda, which have similar specifications, disclose that "[t]he POWER STATUS command is defined as a command used by a controller (STR 60 in this case) to request a target (i.e., the other device) to report the latter's power supply status. Takenaka, 33:54-57; See Noda, 35:7-11. "On receiving the POWER STATUS command, the target returns its response to the controller with a power\_state value of either '70'h or '60'h . . . ." Takenaka, 34:10-12; See Noda, 35:20-29.

In other words, the controller disclosed in Takenaka and Noda sends a command to the target to check the power state of the target device. Neither Takenaka, nor Noda, overcome the deficiencies set forth above, including the failure of Nishikawa to disclose or suggest “the network process unit obtaining a current status of the AV function unit . . . when the network process unit receives, from the electronic apparatus, a communication packet containing a command to check the current status of the AV function unit,” as recited in amended independent claim 8, and similarly recited in amended independent claim 14.

Accordingly, neither Nishikawa, nor Takenaka, nor Noda, discloses or suggests, either alone or in any reasonable combination, at least the above-noted recitations of amended independent claim 8. Amended independent claim 14, although of different scope, includes recitations similar to those discussed above with respect to amended independent claim 8.

For at least the reasons discussed above, the Examiner has not properly ascertained the scope and content of the prior art, not properly ascertained the differences between the prior art and claims 8 and 14, and not established *prima facie* obviousness regarding amended independent claims 8 and 14. Therefore, amended independent claims 8 and 14 are nonobvious over Nishikawa, Takenaka, and Noda under 35 U.S.C. 103(a), and should be allowed.

Claim 9 depends from amended independent claim 8. Claims 15 and 16 depend from amended independent claim 14. For at least the same reasons as set forth above in connection with their corresponding amended independent claims,

claims 9, 15, and 16 are also nonobvious over Nishikawa, Takenaka, and Noda under 35 U.S.C. 103(a), and should be allowed.

## II. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

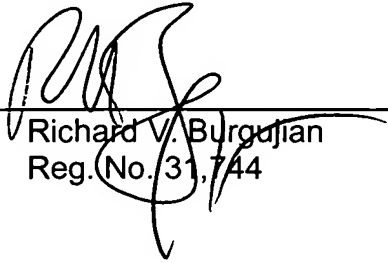
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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